

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**LESLIE B. LAMPTON**

**PLAINTIFF/COUNTER-DEFENDANT**

**VS.**

**CIVIL ACTION NO. 3:09cv324-DPJ-JCS**

**OLIVER E. DIAZ, JR.  
AND JENNIFER DIAZ**

**DEFENDANTS/COUNTER-PLAINTIFFS/  
THIRD-PARTY PLAINTIFFS**

**VS.**

**LESLIE LAMPTON, DUNNICA  
LAMPTON, DARLENE BALLARD,  
AND JOHN DOES 1-15, IN THEIR  
PERSONAL AND INDIVIDUAL  
CAPACITIES**

**THIRD-PARTY DEFENDANTS**

**SEPARATE MOTION OF DUNNICA LAMPTON,  
THIRD-PARTY DEFENDANT, TO DISMISS THIRD-PARTY  
CLAIM OF OLIVER E. DIAZ, JR., FOR FAILURE  
TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

COMES NOW Dunnica Lampton, Third-Party Defendant herein, and moves to dismiss the Third-Party Claim of Oliver E. Diaz, Jr., filed against him on the ground that it does not state a claim upon which relief may be granted and therefore must be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Respectfully submitted,

/s/Dennis L. Horn

Dennis L. Horn (MSB #2645)

Attorney for Third-Party Defendant,  
Dunnica Lampton

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**NOTICE OF MOTION**

Please take notice that the Third-Party Defendant, Dunnica Lampton, will bring on for hearing the above and foregoing Separate Motion of Dunnica Lampton, Third-Party Defendant, to Dismiss Third-Party Claim of Oliver E. Diaz, Jr. for Failure to State a Claim upon which Relief May Be Granted before the Honorable Daniel P. Jordan III, United States District Court Judge, Southern District of Mississippi, as soon as counsel may be heard.

Respectfully submitted,

/s/ Dennis L. Horn  
DENNIS L. HORN

**CERTIFICATE OF SERVICE**

I, Dennis L. Horn, hereby certify that I have this date mailed, by United States Mail, postage prepaid, a true and correct copy of the above and foregoing Separate Motion of Dunnica Lampton, Third-Party Defendant, to Dismiss Third-Party Claim of Oliver E. Diaz, Jr., for Failure to State a Claim upon which Relief May Be Granted to the following:

Hon. Chuck McRae  
P. O. Box 565  
Ridgeland, MS 39158

Hon. J. Kevin Watson  
P. O. Box 23546  
Jackson, MS 39225

Hon. Harold Edward Pizzetta III  
P. O. Box 220  
Jackson, MS 39205-0220

This the 9th day of September, 2009.

/s/ Dennis L. Horn  
Dennis L. Horn